

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

SHERMAN DICKEY,	:	
	:	
Petitioner,	:	
	:	CASE NO.
v.	:	5:10-CR-00031 (CAR)
	:	5:12-CV-90121 (CAR)
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	

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**ORDER ON THE RECOMMENDATION OF THE  
UNITED STATES MAGISTRATE JUDGE**

Currently before the Court is the Recommendation [Doc. 91] of the United States Magistrate Judge on the parties' Joint Motion to Vacate Sentence [Doc. 86] pursuant to 28 U.S.C. § 2255. Based on the parties' stipulation in the Joint Motion, the Magistrate Judge has recommended that the Court enter an order vacating Petitioner's sentence and re-imposing the same sentence in a new judgment to allow Petitioner to file an out-of-time appeal. The parties have waived their right under 28 U.S.C. § 636(b)(1) to file objections to the Magistrate Judge's Recommendation.

After due consideration of the matter, the Recommendation [Doc. 91] is **ADOPTED** and **MADE THE ORDER OF THE COURT**. Petitioner's judgment of conviction [Doc. 67] is hereby **VACATED** but immediately **REINSTATED**

effective as of the date of this Order on the same terms previously entered.

Petitioner shall have the opportunity to file a notice of appeal of this reinstated judgment as provided in Fed. R. App. P. 4(b). In addition, Petitioner's Motion to Vacate, Set Aside, or Correct Judgment Pursuant to 28 U.S.C. § 2255 [Doc. 71] is **DISMISSED without prejudice.**

SO ORDERED, this 7<sup>th</sup> day of September, 2012.

S/ C. Ashley Royal  
C. ASHLEY ROYAL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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